

## **REMARKS**

### **Amendments**

Claims 1 and 35 are amended to incorporate the recitation of claim 16, now cancelled. See, e.g., page 10 lines 9-11. Also, the definition of group  $R^1$  in claims 1 and 35 is rearranged for clarity. Similar changes are made to claims 21-26. See, e.g., page 9, lines 11-38. Claim 27 is amended to insert a parenthesis in the name of the second compound. Also, claim 35 is amended to delete "furthermore preferably" and also amended to delete the benzo-oxadiazolyl radicals, also called benzofurazanyl. See Example 17 of US 5,032,604 (Baldwin et al.).

New claim 36 is similar to original claim 1, except that  $R^1$  is defined as  $Het^1$  or a naphthyl radical which is unsubstituted or substituted by  $R^2$  and/or  $R^3$ , and  $Het^1$  is defined as in claim 35. Claim 37 is similar to the prior version of claim 1, except that  $R^1$  is defined as  $Het^1$  or a naphthyl radical which is unsubstituted or substituted by  $R^2$  and/or  $R^3$ . New claim 38 is similar to original claim 1, except that  $R^4$  is defined as CN, acyl having 1-6 C atoms, Hal, A, OA or OH, or together with  $R^5$  is alkylene having 3-5 C atoms. New claim 39 is similar to original claim 1, except that  $R^5$  is CN, acyl having 1-6 C atoms, or Hal, or together with  $R^4$  is alkylene having 3-5 C atoms. See, e.g., page 1, lines 1-31 and page 9, lines 11-33.

New claims 40-43 recite that the  $R^1-CH_2-CH_2$ -piperazinecarbonyl radical is attached to the 4-, 5-, 6- or 7-position of the indole ring. See, e.g., page 10, lines 9-11. New claims 44-45, which depend from claim 36, recite certain  $R^1$  groups. See, e.g., page 9, lines 11-38. New claim 46 is similar to present claim 35 with further specific definitions of groups  $R^2$ ,  $R^3$ ,  $R^4$  and A. See, e.g., page 7, line 24 - page 8, line 7. New claims 47-54 recite specific compounds and their salts or solvates. See, e.g., page 18, line 35 - page 22, line 22. New claims 55-71 are directed to further aspects of applicants' invention. See, e.g., page 4, lines 3-4; page 5, lines 6-8; and page 16, lines 28-34; page 20, lines 32-84.

Baldwin et al. (US '604) discloses the compounds 4-[2-Benzofurazan-5(or 6)-yl)ethyl]-1-indole-5-carbonyl)-piperazine. See column 24, Example 17. Adams et al. (WO '715) discloses 1-(1H-Indol-3-carbonyl)-4-(2-phenylethyl)piperazine. See page 8, line 25. Shutske (EP '240)

discloses 1-[5-methoxy-1H-indol-7-yl) carbonyl]-4-(2-phenylethyl) piperzine. US '604, WO '715 and EP '240 do not suggest Applicants' claimed invention.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

  
Orion R. Heaney (Reg. No. 32,542)  
Attorney/Agent for Applicant(s)

MILLEN, WHITE, ZELANO  
& BRANIGAN, P.C.  
Arlington Courthouse Plaza 1, Suite 1400  
2200 Clarendon Boulevard  
Arlington, Virginia 22201  
Telephone: (703) 243-6333  
Facsimile: (703) 243-6410

Attorney Docket No.: MERCK-2370

Date: June 15, 2004